IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5594 OF 2004

Balbhim Eknath Khandagale
and four others — Petitioners

versus

The State of Maharashtra
and four others — Respondents

WRIT PETITION NO.3799 OF 2003

Sanskrit Vidyamandir Shikshan
Sanstha — Petitioners

versus

State of Maharashtra & ors. — Respondents

WITH
CIVIL APPLICATION NO.1847 OF 2004

Sanskrut Vidyamandir Shikshan
Sanstha — Petitioner

versus

Balbhim Eknath Khandagale
and others & State of Maharashtra — Respondents

WITH
CIVIL APPLICATION NO.2312 OF 2004

Sanskrit Vidya Mandir Shikshan
Sanstha — Petitioner

versus

State of Maharashtra & others — Respondents

Mr.Hardikar, adv. for petitioner
C.R.Sonawane, AGP for R.1 to 3
Mr.R.G.Ketkar, adv. for R.4 and 5.

P.B.Shaligram, adv. for petitioner.
S.S.Hardikar, adv. for R-1.
C.R.Sonawane, AGP.
R.G.Ketkar, adv. for Corpn.

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CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, J.

DATE : 9th December 2004
PC :

1. Heard advocates.

2. Sanskrit Vidyamandir Shikshan Sanstha i.e. petitioner in Writ Petition No.3799 of 2003 is an Educational Institution established with the object to encourage and develop Sanskrit Language. The petitioner is running a Sanskrit school at Pune. The State Government has allotted to the petitioner land admeasuring 3136 sq. mtrs. having CTS No.2190 and 2191 at Parvati Sahakar Nagar No.1, Pune for play ground. At the time of taking over possession of the said land, an area of 2521.4 sq. mtrs. only was given in actual possession of petitioner by the

Tahsildar because on the remaining part there was unauthorized encroachment by slum dwellers. By order dated 9th May 1995 the Collector, Pune directed to remove the said encroachment u/s 50 of Maharashtra Land Revenue Code, 1966. Since the authorities failed to take steps and implement the directions of Collector, the petitioner institution has approached this Court seeking direction to the authorities to remove the unauthorized hutment and hand over vacant possession to the petitioner.

3. Writ Petition No.5594 of 2004 has been filed on behalf of the slum dwellers on CTS Nos.2190 and 3136 seeking protection of the amended provisions of Maharashtra Slum Areas, Improvement and Clearance Act, 1971, hereinafter referred to for the sake of brevity as "the Act". It is the case of these petitioners that the said Act has given protection to the structures which were in existence as of 1st January 1995 and occupants of such structures cannot be evicted without providing alternate land/premises to such occupants.

4. By our order dated 6th September 2004 we directed the Pune Municipal Corporation to

process the applications of occupants and to grant to them photo passes, if they were on the land prior to 1st January 1995. Pursuant to our directions the Municipal Corporation has processed the applications made by concerned slum dwellers and about 38 slum dwellers are held to be entitled for photo passes and on payment of requisite charges the photo passes have been issued in favour of 10 hutment dwellers. A list of the eligible hutment dwellers produced by learned counsel appearing for Pune Municipal Corporation is taken on record and marked "X" for identification.

5. Section 3(Z) of the Act reads as follows :-

> 3Z. (1) Notwithstanding anything contained in this Act, on and after the commencement of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Second Amendment) Act, 2001, no protected occupier shall, save as provided in sub section (2), be evicted, from his dwelling structure.
>
> Provided that, if any of the protected occupiers does not comply with the terms and conditions of the scheme for relocation and rehabilitation, such occupier shall forfeit the claim for such relocation and rehabilitation and shall become liable for eviction without being relocated and rehabilitated."

6. In the light of provisions of Section 3(Z),

the occupants who were on the land prior to 1st January 1995 cannot be evicted from their structures without relocating and rehabilitating them in accordance with the scheme to be prepared by the State. The State Government is directed to take steps to relocate 38 eligible slum dwellers in terms of Section 3(Z) and after removing the hutments hand over possession of 615 sq.mtr. to the petitioner institution within nine months from today. It is needless to mention that till the relocation of eligible slum dwellers takes place, their structures shall not be demolished by the authorities.

7. Writ petitions and Civil Applications stand disposed of in terms of order as above. No order as to costs.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)